IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

THURSDAY, THE 12TH OCTOBER 2006 / 20TH ASWINA 1928

WP(C).No. 4436 of 2006(C)

PETITIONER:

G.MOHAN, VICE PRESIDENT,
PARENT TEACHERS ASSOCIATION,
SREE AYYAPPA COLLEGE, ERAMALLIKKARA,
CHENGANNOOR.

BY ADV. SRI.GEORGE POONTHOTTAM

RESPONDENTS:

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1. TRAVANCORE DEVASWOM BOARD,
REPRESENTED BY THE SECRETARY, THIRUVANANTHAPURAM.

2. N.SURESH, PRINCIPAL,
SREE AYYAPPA COLLEGE, ERAMALLIKKARA,
CHENGANNOOR (UNDER SUSPENSION).

BY ADV. SRI.O.V.RADHAKRISHNAN (SR.)
SMT.K.RADHAMANI AMMA
SRI.ANTONY MUKKATH

SRI.P.PARAMESWARAN NAIR - SC, TDB.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12/10/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX (WP.4436/2006)

EXT.P1: TRUE COPY OF SUSPENSION ORDR DT. 30/9/2005.

EXT.P2: TRUE COPY OF COMPLAINT DT. 28/9/2005.

EXT.P3: TRUE COPY OF REPRESENTATION DT. 10/10/2005.

EXT.P4: TRUE COPY OF COMPLAINT .

EXT..P5: TRUE COPY OF PROCEEDINGS DT. 1/3/2006.

EXT.P6: TRUE COPY OF PROCEEDINGS DT.28/2/2006.

RESPONDENTS' EXHIBITS:

EXT.R2(A): PHOTOCOPY OF MEMO OF CHARGES DT. 20/10/2005.

EXT.R2(B): DUTY CERTIFICATE DT. 28/9/2005.

EXT.R2(C): COPY OF ATTENDANCE REGISTER

EXT.R2(D): COPY OF REPRESENTATION DT. 7/10/2005.

EXT.R2(E): COPY OF STATEMENT DT. 15/10/2005.

EXT.R2(F): DO. DT. DO.

A.K. Basheer, J.

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W.P(C) No. 4436 of 2006

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Dated this the 12th day of October, 2006.

J U D G M E N T

Petitioner claims that he is the Vice President of Parent Teachers' Association of Sree Ayyappa College, Eramallikkara in Changannur. He prays for issuance of a writ of mandamus or such other appropriate writ, order or direction to respondent No.1, the Travancore Devaswom Board, "to conduct an independent enquiry into the incident which has led to the issuance of Ext.P1 order of suspension" of respondent No.2 and to take appropriate action against him in accordance with law.

2. Respondent No.2 was working as the Principal in Sree Ayyappa College mentioned above during 2005. The management had placed respondent No.2 under suspension by its order dated September 30, 2005 on the basis of a complaint received from 12 members of the teaching staff of the college alleging that he was found with the Matron of the Ladies Hostel in the toilet attached to his office in the forenoon of September 26, 2005. The members of the staff who claimed that they were eye witnesses to the alleged incident stated in the complaint that they had gone to the Principal's room to discuss about the preparation to be made for keeping the dead body of Sri.Rajasekharan, a member of the teaching staff who had passed away, in the college premises for public view. It was stated in Ext.P2 complaint by the teaching staff that at the time when they went to the Principal's room it was seen locked from outside. The Peon standing outside informed them that it was better not to see the Principal then, since he was drunk. When the Peon was

informed about the purpose of the visit, he told them that the Principal was talking to the Matron. A pair of lady's chappel was seen outside. They knocked at the door and called the Principal from the mobile phone of one of the teaching staff. After about 15 minutes, the Matron came out of the bathroom crying which did not appear to be natural, according to the complainants. She informed them that the Principal had called her to verify the accounts of the hostel. When they looked inside the room through the half closed door, they found the Principal sitting on the closet in a clumsy posture. It is not necessary to refer to the other descriptions about his condition in Ext.P2 complaint. In short, the teachers requested the management to take appropriate action against the Principal, as otherwise the entire reputation of the college would be in peril. It was on the basis of the said complaint that Ext.P1 order of suspension was issued. According to the petitioners, the Matron herself had given Ext.P4 statement regarding the incident.

3. The grievance of the petitioner is that the domestic enquiry ordered by the management was only an “eye wash” since a member of the Board wanted to protect respondent No.2. It is submitted by the petitioner that apart from 5 members of the teaching staff, some other members of the non-teaching staff were also examined by the Enquiry Officer. The petitioner alleged that the Enquiry Officer had eschewed their evidence. The management later issued Ext.P6 order on February 28, 2006 accepting the report of the Enquiry Officer, in which respondent No.2 was exonerated from all charges levelled against him. Consequently the order of suspension was revoked and respondent No.2 was reinstated in service with immediate effect. Petitioner has

thereafter amended the writ petition and sought to quash Ext.P6 order also.

4. In the counter affidavit filed by respondent No.2, it is contended that petitioner has no locus standi at all to institute the writ petition. The writ petition has not been filed by the Parent Teachers' Association and no document has been produced to show that the Association had taken a decision to institute the writ petition or that petitioner who was admittedly the Vice President was authorised to file the same. Respondent No.2 denied the entire allegations made against him in Ext.P2 complaint. It is contended by him that the signatories to the complaint, particularly 5 of them, were hostile towards him. It is further contended by him that the alleged incident had not taken place at all. Principal's chamber is glass panelled on three sides without any curtains. A Peon was on duty outside his chamber. At that time (11 AM) several people were waiting in the college premises to know about the arrival of the dead body of Rajasekharan. The Matron had given the statement initially under duress, threat and coercion. Later she had denied the entire incident. The Enquiry Officer after considering the statement of 10 witnesses including that of the 5 teachers referred to above, had submitted his report, which was accepted by the disciplinary authority. Accordingly respondent No.2 was exonerated. It is also pointed out by respondent No.2 that the Matron had never lodged any complaint before the Police. If the alleged incident had in fact taken place, she would have, under normal circumstances, preferred a complaint before the Police.

5. In the additional counter affidavit also respondent No.2 has

asserted that the P.T.A had never taken a decision to institute the writ petition. Since the Enquiry Officer had found the petitioner not guilty of the charges levelled against him, and also since the disciplinary authority had accepted the report, the petitioner had no locus standi to approach this Court under Article 226 of the Constitution, praying for quashing Ext.P6 order of reinstatement of respondent No.2.

6. I have carefully perused the pleadings of the parties and also the file which was made available by the management. The fact remains that petitioner who claims to be the Vice President of the PTA has filed this writ petition in his individual capacity. He has not produced any authorisation or resolution passed by the Association in this regard. Nor has he produced any document to show his authority to represent the Association.

7. It may also be noticed that 5 teachers were examined by the Enquiry Officer apart from 5 other members of the non teaching staff on the side of the prosecution. Petitioner has not produced the enquiry report. More significantly, petitioner has not even alleged that the Enquiry Officer was biased or that the proceedings in the domestic enquiry were vitiated for any reason. Petitioner has made some facile allegations against respondent No.2. He has alleged that the reputation of the institution would be in peril if the management did not conduct an "independent enquiry" in the matter. It is also pertinent to note that neither the Matron nor any other members of the teaching or non-teaching staff of the college has challenged the decision of the Managing Committee. There is no challenge against the report of the Eqnuiry officer also. It is also on record that the Matron had

subsequently given a statement retracting from the original version given by her . Anyhow, as mentioned earlier, the Matron has not challenged the decision of the management nor has she questioned the findings entered by the Enquiry Officer in the domestic enquiry. She had also not filed a complaint against respondent No.2 before the Police. In any view of the matter I do not find any reason why this Court in exercise of its discretionary jurisdiction should intervene and issue a direction for a so called "independent" enquiry. as requested by the petitioner, whose locus standi itself has been questioned by respondent No.2.

Having regard to the entire facts and circumstances I do not find any merit in the writ petition. It is accordingly dismissed.

A.K. Basheer

Judge.

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